

KABR610117312022



IN THE COURT OF THE I ADDL CIVIL JUDGE & JMFC.,
NELAMANGALA

Present: Sri. Manju.M., B.Sc. LLB.,
I Addl. Civil Judge & J.M.F.C.
Nelamangala.

Dated this the 1st day of April, 2026

Misc.No.21/2022

Petitioner/s: Smt. G. Shilpa W/o L. Manju
Aged about 29 years,
R/at Nandishwara Layout,
Near Pragathi School,
Madavara Village,
Dasanapura Hobli,
Bengaluru North Taluk.

(By Sri. M.S., Advocate)

V/s

Respondent/s: Sri. Marappa S/o Late Doddaguddaiah
Aged about 60 years,
R/at Madavara Village,
Dasanapura Hobli,
Bengaluru North Taluk.

(By Sri. O.M.G., Advocate)

PARTIES IN IA.

Applicant/Petitioner: Smt. G. Shilpa.

V/s

Opponent/Respondents: Sri. Marappa.

**Orders on I.A filed by the Petitioner Under Order 9 Rule
13 R/W Section 151 of CPC**

The petitioner has filed this petition under order IX rule 13 R/w Section 151 of CPC to set aside the exparte judgment and decree in OS.No.503/2018 dated 29.03.2022 and permit the petitioner to contest the matter on merits and restore the suit to its original position.

2. I.A supported by an affidavit of the petitioner and submitted that the plaintiff/respondent herein has filed a false suit against the petitioner/defendant in O.S.No.503/2018 in respect of suit property. Further, it is submitted that the petitioner herein has acquired the suit property under registered sale deed dated 24.08.2012 from one Anjanamurthy. Further, it is submitted that the notice issued by this court in O.S.No.503/2018 has not been received by the

petitioner herein and the respondent herein has managed to get somebody signature on the postal acknowledgment and the Hon'ble court has placed petitioner/defendant exparte on 10.12.2019. Further, it is submitted that the the respondent herein has filed EP in Ex.No.26/2022 on the basis of Judgment and decree in O.S.No.503/2018. Further, it is submitted that the petitioner has build the house in the schedule property and residing therein along with family members. Further, it is submitted that the petitioner has a good case on merits and the petitioner came to know about the proceedings when notice has been received by the petitioner in Ex.No.26/2022 and immediately applied for the copies of entire file in O.S.No.503/2018 and came to know about the exparte decree. Further, it is submitted that if the petition is allowed no hardship or injustice will caused to the respondent and on the other hand if the petition is not allowed, much hardship will

caused to the petitioner. Hence, prays to allow the application.

3. After service of suit notice, the respondent has appeared before the court and filed the statement of objection.

4. In the statement of objection, the respondent has denied the allegation of fact made by the petitioner and contended that, the application filed by the petitioner is not maintainable either in law or on facts and same is liable to be dismissed. Further, it is contended that the petitioner was well aware about the proceedings of O.S.No.503/2018 and intentionally not filed vakalath and not appeared before the court. Further, it is contended that the petitioner has failed to make out sufficient cause for her non appearance before the court. Further, it is contended that if the petition filed by the petitioner is dismissed no hardship will caused to the petitioner and if the petition is allowed the

respondent will be put great hardship and inconvenience. Hence, prays to dismiss the application.

5. Heard both side perused the entire records, the following point arises for consideration is as follows:

1. Whether the petitioner has made out sufficient and satisfactory grounds to allow the petition?
2. What order?

6. The finding on the above points are as follows:-

Point No. 1 : In the Affirmative
Point No. 2 : As per final order for
the following:

R E A S O N S

POINT NO.1:

7. It must be noted that, I need not repeat the entire contention of both the parties here also. Since I have already narrated the same at the inception of this order.

8. It must be noted that, in order to prove petitioner contention, the petitioner has examined as PW1 and got marked Ex.P1 to Ex.P6. Ex.P1 is the certified copy of

order sheet in O.S.No.503/2018. Ex.P2 is the certified copy of plaint in O.S.No.503/2018. Ex.P3 is the certified copy of Judgment and decree in O.S.No.503/2018. Ex.P4 is the summons. Ex.P5 is the postal cover. Ex.P6 is the postal acknowledgment.

9. It must be noted that as per the order sheet dated 08.09.2025, the counsel for respondent submitted that no evidence on behalf of respondent.

10. Having heard the arguments of both the sides and perusal of the materials on record, it is relevant to note that, the petitioner has filed this petition to set aside the exparte judgment and decree in OS.No.503/2018 and permit the petitioner to contest the matter on merit and restore the suit to its original position. In the case on hand, the petitioner has examined as PW1. In the evidence of PW1, the PW1 has produced the certified copy of the entire order sheet of O.S.No.503/2018 and same is marked as Ex.P1. On perusal of the entire order

sheet at Ex.P1, it is relevant to note that, on 10.12.2019, the petitioner/defendant was placed exparte and summons issued through RPAD was received and thereafter, the matter was posted for plaintiff's evidence. In the case on hand, the petitioner has contended that she has acquired the suit schedule property under registered sale deed dated 24.08.2012 and the petitioner has constructed a house in the suit property and resided therein along with family members. In order to meets the ends of justice and also by imposing some cost on the petitioner, if the petition is allowed no hardship or injustice will caused to the respondent herein. In order to adjudicate the dispute completely and effectively, it is very much necessary to allow the application filed by the petitioner. Hence, this court is proceed to answer **point no.1 in the Affirmative.**

POINT NO.2:

11. For the foregoing reasons, I proceed to pass the following:

:ORDER:

The petition filed by the petitioner U/O. IX Rule 13 R/W section 151 of CPC is hereby allowed on cost of Rs.5,000/-.

The Judgment and decree passed in OS.No.503/2018 is set aside.

O.S.No.503/2018 is restored to its original stage and petitioner is permitted to contest the matter on merits and O.S.No.503/2018 shall be called on 28.04.2026. Further, the petitioner and respondent shall appear before this Court on 28.04.2026 without expecting further notice from the court.

(Dictated to the stenographer, transcribed by him, corrected and then pronounced in the open Court on this the 1st day of April, 2026)

Sd/-
I Addl Civil Judge & JMFC.,
Nelamangala.

ANNEXURE**List of witnesses examined on behalf of petitioner:**

PW.1 : Smt. G.Shilpa

List of documents marked on behalf of petitioner:

Ex.P1: Certified copy of order sheet in O.S.503/2018

Ex.P2 : Certified copy of plaint in O.S.503/2018

Ex.P3 : Certified copy of Judgment
& decree in O.S.503/2018

Ex.P4 : Summons

Ex.P5 : Postal cover

Ex.P6 : Postal acknowledgment

List of witnesses examined on behalf of respondents:

~Nil~

List of documents marked on behalf of respondents:

~Nil~

Sd/-

I Addl Civil Judge & JMFC.,
Nelamangala.